

§ 32-26. Incorporation by reference of powers enumerated in § 32-27; restriction on exercise of such powers.

(a) By an express intention of the testator or settlor so to do contained in a will, or in an instrument in writing whereby a trust estate is created inter vivos, any or all of the powers or any portion thereof enumerated in G.S. 32-27, as they exist at the time of the signing of the will by the testator or at the time of the signing by the first settlor who signs the trust instrument, may be, by appropriate reference made thereto, incorporated in such will or other written instrument, with the same effect as though such language were set forth verbatim in the instrument. Incorporation of one or more of the powers contained in G.S. 32-27 by reference to that section shall be in addition to and not in limitation of the common law or statutory powers of the fiduciary.

(b) No power of authority conferred upon a fiduciary as provided in this Article shall be exercised by such fiduciary in such a manner as, in the aggregate, to deprive the trust or the estate involved of an otherwise available tax exemption, deduction or credit, expressly including the marital deduction, or operate to impose a tax upon a donor or testator or other person as owner of any portion of the trust or estate involved. "Tax" includes, but is not limited to, any federal, State, or local income, gift, estate or inheritance tax.

(c) Nothing herein shall be construed to prevent the incorporation of the powers enumerated in G.S. 32-27 in any other kind of instrument or agreement. (1965, c. 628, s. 1.)